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DRAFT

OF A

CITY CHARTER,

PREPARED BY

A COMMITTEE OF THE CITIZENS,

APPOINTED AT A

TOWN MEETING,

HELD

SATURDAY, JANUARY 23d, 1847,

TO BE PRESENTED AND ACTED UPON AT THE ADJOURNED
MEETING, TO BE HELD ON

SATURDAY, FEBRUARY 6, 1847.

NEW-BEDFORD:

PRESS OF BENJAMIN LINDSEY.

1847.

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Josiah W. Benton Ed.
May 12, 1847

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R E P O R T.

At a Special Town Meeting of the Inhabitants of New Bedford, held on the 23d day of Jan. A. D. 1847, it was

Voted, That the second article of the warrant be referred to a committee, with instructions to report at an adjournment of this meeting a draft of a charter for the consideration of the citizens, with a view to its presentation to the General Court at its present session, for the requisite legislative sanction.

Subsequently the following gentlemen were appointed to constitute said committee, viz: J. H. W. Page, Geo. Howland, Jr., Sampson Perkins, John Baylies, Horatio A. Kempton, Thomas Mandell, George Hussey, Henry H. Crapo, Abraham Barker, John H. Clifford, Wm. H. Taylor, Henry Taber, James H. Collins, Edward W. Greene, I. D. Hall, E. M. Robinson, Ward M. Parker, Thomas A. Greene, Ephraim Kempton, Seth Russell, James B. Congdon.

Voted.—That the foregoing Committee be instructed to cause the draught of a charter which they may prepare, to be published either in a pamphlet form or in the newspapers of the town, for the information of the citizens, five days before the time to which the meeting shall be adjourned.

Meeting adjourned to Saturday, the 6th day of Feb. 1847, at 10 o'clock, A. M. A true copy of record.

Attest. HENRY H. CRAPO, Town Clerk.

In accordance with the instructions of the town the Committee appointed at the town meeting of the record of whose proceedings the above is a copy, present for the consideration of the inhabitants the following draft of an act to establish the city of New Bedford.

In behalf of the Committee,

J. H. W. PAGE, Chairman.

New-Bedford, Jan, 30, 1847.

An Act

TO ESTABLISH THE CITY OF NEW-BEDFORD.

Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows :

SECTION 1. The inhabitants of the town of New-Bedford shall continue to be a body politic and corporate, under the name of the city of New-Bedford, and as such shall have, exercise, and enjoy, all the rights, immunities, powers and privileges, and shall be subject to all the duties and obligations, now incumbent upon and appertaining to said town, as a municipal corporation.

SECTION 2. The administration of the fiscal, prudential and municipal affairs of said city, and the government thereof, shall be vested in one principal officer, to be styled the mayor ; one council of six, to be denominated the board of aldermen ; and one council of twenty-four, to be denominated the common council : which boards, in their joint capacity, shall be denominated the city Council, and the members thereof shall be sworn to the faithful performance of the duties of their respective offices. A majority of each board shall constitute a quorum for the transaction of business, and no member of either board shall receive any compensation for his services.

SECTION 3. It shall be the duty of the Selectmen of the town of New Bedford, as soon as may be after the passage of this act, and its acceptance by the inhabitants, as hereinafter provided, to divide said town into six wards, to contain, as nearly as conveniently may be, an equal number of inhabitants ; which proceedings of

the selectmen shall be subject to the revision of the inhabitants, at a meeting which shall be called for that purpose.

And it shall be the duty of the city Council, once in five years, and not oftener, to revise, and, if it be needful, to alter said wards, in such manner as to preserve, as nearly as may be, an equal number of inhabitants in each ward.

SECTION 4 On the first Monday of March, annually, there shall be chosen by ballot, in each of said wards, a warden, clerk, and three inspectors of elections, residents of the wards in which they are chosen, who shall hold their offices for one year, and until others have been chosen in their places and qualified to act.

It shall be the duty of such warden to preside at all ward meetings, with the powers of moderator of town meetings. And if, at any such meeting, the warden shall not be present, the clerk of such ward shall call the meeting to order, and preside until a warden, pro tempore, shall be chosen by ballot. And if, at any meeting, the clerk shall not be present, a clerk pro tempore, shall be chosen by ballot. The clerk shall record all the proceedings, and certify the votes given, and deliver over, to his successor in office, all such records and journals, together with all other documents and papers held by him in said capacity. It shall be the duty of the inspectors of elections to assist the warden in receiving, assorting and counting the votes. And the warden, clerk and inspectors so chosen, shall respectively make oath, faithfully and impartially to discharge their several duties relative to all elections, which oath may be administered by the clerk of such ward to the warden, and by the warden to the clerk and inspectors, or by any justice of the peace for the county of Bristol. A certificate that said oath has been taken shall be entered upon the records of the ward by the clerk thereof. All warrants for the meetings of the citizens for municipal purposes, to be held either in wards or in general meetings, shall be issued by the mayor and aldermen, and shall be in such form, and shall be served, executed, and returned at such time, and in such manner, as the city Council may, by any by-law, direct.

SECTION 5. The mayor and six aldermen, one alderman being selected from each ward, shall be elected by the qualified voters of the city at large, voting in their respective wards; and four Common Council men shall be elected from, and by the voters of, each ward, being residents in the wards when elected: all said officers shall be chosen by ballot, and shall hold their offices for one year from the first Monday in April, and the mayor until another shall be elected and qualified in his place.

SECTION 6. On the first Monday in March, annually, immediately after a warden, clerk and inspectors shall have been elected and sworn, the qualified voters in each ward shall give in their votes for mayor, aldermen and common council men, as provided in the preceding section: all the votes so given shall be assorted, counted, declared and registered in open ward meeting, by causing the names of persons voted for, and the number of votes given for each, to be written in the ward record at length. The clerk of the ward, within twenty-four hours after such election, shall deliver to the persons elected members of the common council, certificates of their election, signed by the warden and clerk and by a majority of the inspectors of election, and shall deliver to the city clerk, a copy of the records of such election certified in like manner:

Provided, however, that if the choice of members of the common council shall not be effected on that day, the meeting may be adjourned from time to time to complete such election. The board of aldermen, shall, as soon as conveniently may be, examine the copies of the records of the several wards, certified as aforesaid, and shall cause the person who shall have been elected mayor to be notified in writing of his election: but if it shall appear that no person has received a majority of the votes, or if the person elected shall refuse to accept the office, the board shall issue its warrants for a new election, and the same proceedings shall be had in all respects as are herein before provided for the choice of mayor, and repeated from time to time until a mayor shall be chosen.

In case of the decease or resignation of the mayor, or

of his inability to perform the duties of his office, the boards of aldermen and common council shall respectively, by vote, declare that a vacancy exists and the cause thereof; whereupon the two boards shall meet in convention and elect a mayor to fill such vacancy; and the mayor thus elected shall hold his office until the inability causing the vacancy shall be removed, or until a new election.

If it shall appear that the whole number of aldermen have not been elected, the same proceedings shall be had as are herein before provided in regard to the office of mayor. Each alderman shall be notified in writing of his election by the mayor and aldermen for the time being.

The oaths prescribed by this act may be administered to the mayor by the city clerks or by any justice of the peace for the county of Bristol.

The aldermen and common council men elect, shall, on the first Monday of April, at 10 o'clock in the forenoon, meet in convention, when the oath required by the act shall be administered to the members of the two boards present by the mayor or by any justice of the peace for the county of Bristol, and a certificate, setting forth that such oath has been taken, shall be entered in the journal of the mayor and aldermen and of the common council, by their respective clerks.

Whenever it shall appear that a mayor has not been elected previously to the said first Monday of April, the mayor and aldermen for the time being, shall make a record of that fact, an attested copy of which, the city clerk shall read at the opening of the convention to be held as aforesaid on the first Monday of April.

After the oaths have been administered as aforesaid, the two boards shall separate; and the common council shall be organized by the choice of a president and a clerk, to hold their offices during the pleasure of the common council; the clerk to be under oath faithfully to perform the duties of his office.

In case of the absence of the Mayor elect, on the first Monday of April, the city government shall organize itself in the manner herein before provided, and may proceed to business in the same manner as if the mayor

were present, and the oath of office may at any time thereafter, in convention of the two branches, be administered to the mayor and any member of the city council who may have been absent at the organization.

In the absence of the mayor, the board of aldermen may choose a presiding officer pro tempore, who shall also preside at joint meetings of the two boards. Each board shall keep a record of its own proceedings, and judge of the elections of its own members; and in case of failure of election, or in case of vacancy, may order new elections. And in case of any such vacancy, declared by either board, the mayor and aldermen shall issue their warrants for a new election.

SECTION 7. The mayor shall be the chief executive officer of the city. It shall be his duty to be vigilant and active in causing the laws to be enforced, and to keep a general supervision over the conduct of all subordinate officers; and he may, whenever in his opinion the public good may require, remove, with the consent of the appointing power, any officer over whose appointment he has, in accordance with the provisions of this charter exercised the power of nomination.

He may call special meetings of the boards of aldermen and common council, or either of them, when, in his opinion, the interests of the city require it, by causing notices to be left at the usual dwelling place of each member of the board or boards to be convened.

He shall, from time to time, communicate to both boards, such information and recommend such measures, as the business and interests of the city may, in his opinion require.

He shall preside in the board of aldermen and in convention of the two boards, but shall have a casting vote only.

The salary of the mayor for the first year in which this charter shall take effect shall be eight hundred dollars and no more.

After the first year, the salary of the mayor shall be determined by the city council, and payable at stated periods; but shall not at any time exceed 800 dollars, and he shall have no other compensation; but such com-

pensation shall not be increased or diminished during the year for which he is chosen.

SECTION 8. The executive power of said city, generally, and the administration of police, with all the powers heretofore vested in the selectmen of New-Bedford shall be vested in the mayor and aldermen, as fully as if the same were herein specially enumerated.

The mayor and aldermen may require any person who may be appointed a marshal or constable of the city, to give bonds, with such security and to such amount as they may deem reasonable and proper; upon which bonds the like proceedings and remedies may be had as are by law provided in case of constable's bonds required by the selectmen of towns in this Commonwealth.

The mayor and aldermen shall have full power to grant licences to inn-holders, victuallers and retailers within the city, in as full and ample a manner as the mayor and aldermen of the city of Boston, by virtue of the laws of the commonwealth.

The city council shall, annually, as soon after their organization as may be convenient, elect by joint ballot, in convention, a city clerk, a city treasurer, and collector of taxes, and firewards, and shall, in such manner as the city council shall determine, by any by-law made for the purpose, appoint or elect all subordinate officers not herein otherwise directed for the ensuing year, define their duties and compensations, in cases wherein such duties and compensations shall not be defined and fixed by the laws of this commonwealth. And the city council shall, in like manner, elect a constable and assistant constable, or a city marshal and assistants with the powers and duties of constables, and all other needful police officers: *provided however*, that no person shall be chosen a marshal or constable, or to any other office in the police of the city who shall not have been nominated to the city council by the mayor.

All sittings of the mayor and aldermen, of the city council and common council, shall be public when they are not engaged in executive business.

The city council shall take care that no moneys be paid from the Treasury unless granted or appropriated ;

shall secure a just and prompt accountability, by requiring bonds, with sufficient penalties and sureties from all persons entrusted with the receipt, custody or disbursement of money ; shall have the care and superintendence of the city buildings, and the custody and management of all city property, with the power to let, or sell what may be legally sold ; and to purchase property, real or personal, in the name and for the use of the city, whenever the interest or convenience of the inhabitants may, in their judgment, require it.

The city council shall, as often as once a year, cause to be published, for the use of the inhabitants, a detailed account of the receipts and expenditures, and a schedule of city property and the city debts.

SECTION 9. No person shall be eligible to any office, the salary of which is payable out of the city treasury, who, at the time of his appointment, shall be a member either of the board of aldermen or common council, and no member of either of these boards, shall hold any other office under the city government.

SECTION 10. The city clerk, shall be clerk of the board of aldermen, and shall be sworn to the faithful performance of his duties. He shall perform such duties as shall be prescribed by the board of aldermen, and shall perform all the duties, and exercise all the powers, by law incumbent upon, or vested in, the town-clerk of the town of New-Bedford. He shall be chosen for one year, and until another is chosen and qualified in his place, but may be at any time removed by the city council.

He shall deliver to his successor in office, as soon as chosen and qualified, all journals, records, record-books, papers, documents, or other things held by him in his capacity of city clerk.

SECTION 11. The qualified voters, at their respective annual ward meetings, to be held on the first Monday of March, shall elect by ballot, one person in each ward who shall be a resident of the ward, to be an overseer of the poor, and the persons thus chosen shall, with the mayor of the city, together constitute the board of over-

seers of the poor, and shall have all the powers, and be subject to all the duties, now by law appertaining to the overseers of the poor for the town of New-Bedford.

And the qualified voters shall, at the same time and in like manner, elect three persons in each ward who shall be residents of the ward, to be members of the school committee, and the persons so chosen shall constitute the school committee, and have the care and superintendence of the public schools.

And the qualified voters shall, at the same time and in like manner, elect one person in each ward who shall be a resident of the ward, to be an assessor, and the persons thus chosen assessors in the several wards, shall constitute the board of assessors, and shall exercise the powers, and be subject to the duties and liabilities of assessors of towns.

An assistant assessor for each ward who shall be a resident of the ward, may be chosen, in the same manner as is herein provided for the choice of assessor, when the city council shall so order ; which assistant assessors shall be sworn to the faithful performance of their duties. All taxes shall be assessed, apportioned and collected, in the manner prescribed by the laws of the Commonwealth: *Provided, however,* that the city council may establish further or additional provisions for the collection thereof.

In case it should be found inconvenient to complete the election in any ward, of the overseers of the poor, school committee, assessor or assistant assessors on the day of the annual ward meeting, said meeting shall be adjourned from time to time until the elections shall be completed.

SECTION 12. The city council shall have the same power in relation to the laying out, acceptance, altering, or discontinuing of streets and ways, and the assessment of damages, which selectmen and inhabitants of towns now by law, have ; but all petitions and questions relating to laying out, widening, altering or discontinuing any street or way, shall be first acted on by the mayor and aldermen.

Any person aggrieved by any proceedings of the mayor and aldermen or city council in the exercise of such powers, shall have the same right of appeal to the County Commissioners of the county of Bristol as are given by the laws of the Commonwealth to appeal from the decision of selectmen or the inhabitants of towns.

SECTION 13. All the power and authority now by law vested in the board of health for the town of New-Bedford, shall be transferred to, and vested in, the city council, to be carried into execution by the appointment of health commissioners, or in such manner as the city council may deem expedient.

SECTION 14. The city council shall have authority to cause drains and common sewers to be laid down through any streets or private lands, paying the owners such damage as they may sustain thereby, and to require all persons to pay a reasonable sum for the privilege of opening any drain into said public drains or common sewers, and may make by-laws with suitable penalties for the inspection, survey, admeasurement and sale of wood, coal and bark brought into the city for sale.

SECTION 15. The police court of the town of New-Bedford, in addition to its present powers and jurisdiction, which are hereby continued to it, shall have cognizance of all offences against the by-laws and regulations which may be established by the city council of the city of New-Bedford, and may, on conviction thereof, award such sentence as to law and justice may appertain.

Any person aggrieved by such sentence, may make appeal therefrom to the Court of Common Pleas for the County of Bristol, under the restrictions and conditions provided by law in other cases of appeal from said court.

In all prosecutions by complaint before the said Police Court, founded on the special acts of the legislature, or the ordinances and by-laws of the city of New-Bedford, it shall be sufficient to set forth, in such complaint, the offence fully and plainly, substantially and formally; and in such complaint it shall not be necessary to set forth such special act, by-law or ordinance, or any part

thereof; and the provisions of this section with regard to such prosecutions, shall also apply to all prosecutions founded on the by-laws or ordinances of the town of New-Bedford, which may remain in force after this act shall go into operation.

SECTION 16. It shall be the duty of the city council, in the month of October, annually, to meet in convention, and determine the number of representatives to be elected to the General Court by the city, in such year, and to publish such determination, which shall be conclusive; and the number thus determined, shall be specified in the warrant calling meetings for the election of representatives.

SECTION 17. All elections for County, State, and United States officers, who are voted for by the people, shall be held at meetings of the citizens qualified to vote in such elections, in their respective wards, at the time fixed by law for these elections respectively, and at such meetings, all the votes given for said several officers respectively, shall be assorted, counted, declared and registered in open ward meeting, by causing the names of all persons voted for, and the number of votes given for each, to be written in the ward record, at length. The ward clerk shall forthwith deliver to the city clerk, a certified copy of the record of such elections. The city clerk shall forthwith record such returns, and the mayor and aldermen shall, within two days after every such election, examine and compare all said returns, and make out a certificate of the result of such elections to be signed by the mayor and a majority of the aldermen, and also by the city clerk, which shall be transmitted or delivered in the same manner, as similar returns are by law directed to be made by selectmen of towns.

In all elections for representatives to the General Court, in case the whole number proposed to be elected shall not be chosen by a majority of the votes legally returned, the mayor and aldermen shall forthwith issue their warrants for a new election, conformably to the provisions of the Constitution and the laws of the Commonwealth.

SECTION 18. Prior to every election, the mayor and aldermen shall make out lists of all the citizens of each ward qualified to vote in such elections, in the manner in which selectmen of towns are required to make out lists of voters; and for that purpose they shall have full access to the assessor's books and lists, and be empowered to call for the assistance of all assessors, assistant assessors, and other city officers; and they shall deliver said lists, so prepared and corrected, to the clerks of the several wards, to be used at such elections; and no person shall be entitled to vote whose name is not borne on such list; and in relation to the preparation, posting and correction of such lists, the mayor and aldermen shall perform the same duties and be governed by the same regulations as are provided in the 3d chapter of the Revised Statutes to be observed by the selectmen of towns; *provided, however*, that a list of the voters of each ward shall be posted up in one or more public places in such ward; and, *provided further*, that any person whose name shall not be borne on the list of the ward in which he is entitled to vote when it shall be placed in the hands of the clerk of said ward, shall have the right to have his name entered thereon at any time thereafter, before the closing of the polls, upon presenting to the ward officers a certificate signed by the mayor or city-clerk, setting forth his right to have his name thus entered.

SECTION 19. General meetings of the citizens qualified to vote, may, from time to time, be held, to consult upon the public good, to instruct their representatives, and to take all lawful measures to obtain redress of any grievances, according to the right secured to the people by the Constitution of the Commonwealth; and such meetings may and shall be duly warned by the mayor and aldermen, upon the requisition of thirty qualified voters.

SECTION 20. For the purpose of organizing the system of government hereby established, and putting the same into operation in the first instance, the selectmen of the town of New-Bedford, for the time being, shall, on some day during the months of March or April, of the present year, issue their warrants, seven days at least previous to

the day so appointed, for calling meetings of the said citizens, at such place and hour as they may deem expedient, for the purpose of choosing a warden, clerk and inspectors for each ward, and all other officers whose election is provided for in the preceding sections of the act; and the transcripts of the records of each ward specifying the votes given for the several officers aforesaid, certified by the warden and clerk of such ward, at said first meeting, shall be returned to the said selectmen, whose duty it shall be to examine and compare the same; and in case such elections should not be completed at the first meeting, then to issue new warrants until such election shall be completed, and to give notice thereof in the manner before provided, to the several persons elected.

At said first meeting, any inhabitant of said ward, being a legal voter, may call the citizens to order, and preside until a warden shall have been chosen. And at said first meeting a list of voters in each ward, prepared and corrected by the selectmen for the time being, shall be delivered to the clerk of each ward, when elected, to be used as herein before provided.

The selectmen shall appoint such time for the first meeting of the city council as they may judge proper after the choice of the city officers as aforesaid, or a majority of the members of both branches, not later than the first Monday in May, in the year of our Lord one thousand eight hundred and forty-seven, and shall also fix upon the place and the hour of said first meeting; and notice of the day, hour, and place of said first meeting, shall be published in one or more newspapers printed in said town, and a written notice thereof shall be sent, by said selectmen, to the place of abode of each of the city officers chosen as provided in this section.

After the first election of city officers, and this first meeting for the organization of the city council, as in this section is provided, the day of holding the annual elections, and the day and hour for the meeting of the city council for the purpose of organization, shall remain as provided in the sixth section of this act.

It shall be the duty of the city council, immediately af-

ter the first organization, to elect all necessary city officers, who shall hold their offices respectively until others are chosen and qualified.

At the meetings to be called as provided in this section, for the choice of ward and city officers, the qualified voters may and shall also give in their votes for county officers, which votes shall be recorded, certified, and returned in the manner provided in the 17th section of this act.

SECTION 21. The city council shall have power to make all such salutary and needful by-laws as towns by the laws of this Commonwealth, have power to make and establish, and to annex penalties, not exceeding twenty dollars for the breach thereof, which by-laws shall take effect and be in force, from and after the time therein respectively limited, without the sanction of any court, or other authority whatever ; and all such by-laws, and all city ordinances, shall be duly published in such newspaper or newspapers as the city council shall direct : *provided, however*, that all by-laws, regulations and ordinances now in force in the town of New-Bedford, shall, until they shall expire by their own limitation, or be revised or repealed by the city council, remain in force ; and all fines and forfeitures for the breach of any by-law or ordinance of the city, shall be paid into the city treasury.

SECTION 22. The annual town meeting for the town of New-Bedford, which by law is to be held in the month of February, March or April, is hereby suspended, and all town officers now in office shall hold their respective places until this act shall go into operation ; and in case this charter shall not be accepted in the manner and form as hereinafter provided, then the selectmen shall issue their warrants according to law for holding the annual town meeting of the inhabitants, in which all the proceedings shall be the same, as if this act had not been passed.

SECTION 23. All officers of the town of New-Bedford having the care and custody of any records, papers or other property belonging to said town, shall deliver

the same to the city clerk, within one week after he shall enter upon the duties of his office.

SECTION 24. All such acts and parts of acts as are inconsistent with the provisions of this act, shall be, and the same are, hereby repealed.

SECTION 25. Nothing contained in this act shall be so construed as to prevent the legislature from altering or amending the same, whenever they shall deem it expedient.

SECTION 26. This act shall be void, unless the inhabitants of New-Bedford, at a legal town meeting called for that purpose, shall, by a majority of the voters present, and voting thereon, by a written vote, determine to adopt the same within twenty days after its passage.

SECTION 27. This act shall go into operation from and after its passage.

JUL 11 1944

